

REMARKS

Claims 1, 12 and 13 remain in the application. Claim 1 has been amended and is in independent form.

Claims 1, 12 and 13 stand rejected under 35 USC 102(b) as being anticipated by U.S. Patent No. 2,976,915 to Spound. The Examiner contends that Spound shows a seat assembly having a seat cushion 12, a seat back 14 having top and bottom portions, a seat frame 10, 16, 18, a head restraint 30 mounted to the seat frame by posts 20 and capable of being moved between a deployed position and a retracted position, a plurality of notches 22 on each of the posts, a control mechanism 24, 26, 27, 28 disposed with the head restraint, a housing, and a shaft 27 pivotally mounted on the housing and being positioned and configured to engage the notches of each of the posts preventing movement of the head restraint and upon rotation of the shaft wherein the shaft becomes spaced from the posts enabling movement of the head restraint, a biasing device 25 disposed between the posts and the housing, the shaft biased to engage the posts, and the shaft having a generally circular cross section with a flat surface. Applicant respectfully disagrees and traverses this rejection.

In response, Applicant has amended independent claim 1 to set forth: An automotive seat assembly comprising; a seat cushion, a seat back having top and bottom portions, a seat frame for supporting the seat cushion and the seat back, and a head restraint mounted to said the frame by posts and capable of being moved between a deployed position and a retracted position. Each of the posts has a plurality of notches. The head restraint comprises a control mechanism disposed within the head restraint for moving the head restraint between the deployed position and the retracted position. The control mechanism comprises a housing and a shaft pivotally mounted on the housing. **The shaft being positioned to engage the notches of each of the posts preventing movement of the head restraint and the shaft becomes spaced from the posts upon rotation thereof to disengage the notches enabling movement of the head restraint.** A biasing device disposed between the posts and the housing for continuously biasing the head restraint towards the deployed position.

Independent claim 1, as amended, clearly distinguishes Applicant's invention over the prior art because the cited reference does not disclose, teach or suggest a shaft that is positioned to engage both posts to prevent movement of the head restraint and the shaft becomes spaced from said posts upon rotation thereof to disengage said notches enabling movement of the head restraint.

The control mechanism of Spound is a rack and pinion assembly wherein linear movement of the rack 20 causes rotation of the gears 24, 26 to rotate the head restraint 30. The teeth on gear 24 are always engaged with the teeth (or notches) on the rack 20 (or post). The shaft 27 merely rotatably supports the gear 24 and is always spaced from the rack 20. Therefore, the shaft 27 never engages the notches of the posts to prevent movement of the head restraint.

In contradistinction, rotation of the shaft (42) in Applicant's invention causes the shaft (42) to move between a position engaged with the notches (27, 29) of the posts (25) to a position spaced from the posts (25) and disengaged from the notches (27, 29) to enable movement of the head restraint between the retracted and deployed positions.

Accordingly, it is believed that the application is in condition for more favorable consideration and Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,



Robin W. Asher, Reg. No. 41,590
Clark Hill PLC
500 Woodward Avenue, Suite 3500
Detroit, MI 48226-3435
(313) 965-8665

Date: 12/8/05
Attorney Docket No: 19365-099806